

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CALVIN MCKELTON,**

**Petitioner,**

**v.**

**WARDEN, Chillicothe  
Correctional Institution,**

**Respondent.**

**Case No. 1:18-CV-134**

**CHIEF JUDGE ALGENON L. MARBLEY**

**Magistrate Judge Jolson**

**ORDER**

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the Court *sua sponte* to address the briefing schedule.

On August 22, 2022, Petitioner, through counsel, filed a Motion for Leave to Conduct Discovery (Doc. 61), and on October 21, 2022, the Warden filed a Response in Opposition. (Doc. 62). Petitioner's Reply was due March 20, 2023.

On February 14, 2023, in response to complaints raised by Petitioner concerning his appointed counsel, the Court issued an Order staying further briefing of the discovery issues. (Doc. 70). Since that time, the Undersigned has denied Petitioner's motions to remove counsel to the extent those motions complained about matters involving the unrelated state postconviction action that Petitioner is pursuing for his claim of serious mental illness. Additionally, appointed counsel has communicated their belief that their relationship with Petitioner "remains strong and that our continued representation of Mr. McKelton in this matter is possible and in the best interests of justice." (Doc. 86). Counsel stated they would be in a

position to file a Discovery Reply by the end of November 2023.

The Court hereby **ORDERS** that the stay on further briefing of the discovery motion be lifted. Counsel for Petitioner shall file the Discovery Reply within thirty (30) days of the date of this Order. Additionally, the Court **DIRECTS** counsel for Petitioner to meet with Petitioner in person. Following that meeting, and within forty-five (45) days of the date of this Order, Counsel shall file a written response to Petitioner's most recent Motion to Remove Counsel (Doc. 90), as well as the Motion for Leave to Supplement Motion to Remove Counsel. (Doc. 93). Counsel shall also provide an update regarding the status of their request to obtain the transcript of the state court hearing on Petitioner's motion to remove counsel in the state case. The Response may be filed **EX PARTE** and **UNDER SEAL** if necessary.

**IT IS SO ORDERED.**

Date: January 17, 2024

/s/ Kimberly A. Jolson  
**KIMBERLY A. JOLSON**  
**UNITED STATES MAGISTRATE JUDGE**